

**NORTH DAKOTA DEPARTMENT OF HUMAN SERVICES
BISMARCK, NORTH DAKOTA
August 24, 2012**

IM 5150

TO: County Social Service Directors
Economic Assistance Policy Regional Representatives
Economic Assistance Policy Quality Control Reviewers

FROM: Maggie Anderson, Director, Medical Services

SUBJECT: Public Institutions and IMDs

PROGRAMS: Medicaid and Healthy Steps

EFFECTIVE: September 1, 2012

RETENTION: Until Manualized

**SECTIONS
AFFECTED:** 510-05-35-95, Inmates of Public Institutions
510-07-25-65, Inmates of Public Institutions

When an applicant or recipient is committed to a public institution, but has not yet been actually placed in the institution, coverage can continue until the individual is actually in the institution. For example, if a recipient is arrested and transported to a medical facility, the individual can remain eligible until the individual leaves the facility and is actually placed in jail.

The Medicaid and Healthy Steps manual sections have been revised below to include the above and to provide additional clarity. Primarily, the revision separates public institution and Institution for Mental Diseases (IMD) policy as they are separate types of institutions with separate policy provisions. The section title has also been revised.

If you have any questions, please contact your Regional Representative.

Public Institutions and IMDs 510-05-35-95 and 510-07-25-65

1. An “inmate” of a public institution is not eligible for Medicaid unless the eligible individual is a child under the age of 19 who is determined to be continuously eligible. Such child remains eligible for Medicaid; however, no medical services will be covered during the stay in the public institution. An “inmate” of a public institution is not eligible for Healthy Steps.
 - a. A public institution is an institution that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control, but does not include a medical institution.

Examples include (but are not limited to): School for the Blind, School for the Deaf, North Dakota Youth Correctional Center, Women’s Correctional Center in New England, North Dakota State Penitentiary, Bismarck Transition Center, and city, county, or tribal jails.

The Bismarck Transition Center (BTC) is a community-based correctional program designed to help eligible, non-violent offenders transition back into the community, and is a public institution. Individuals entering this facility as “inmates” who are sent to the facility for assessment purposes are committed under the penal system and will be arrested if they leave. Because such individuals are “inmates,” they are not eligible for Medicaid or Healthy Steps. (Individuals entering this facility on a voluntary basis while on probation are not “inmates.”)

While some institutions are owned or controlled by governmental entities, they do not meet the definition of public institutions because they are medical institutions.

Examples include (but are not limited to): State Hospital, State Developmental Center at Grafton, Veterans Administration Hospitals, and the North Dakota Veteran’s Home.

- b. An "inmate" of a public institution is a person who has been involuntarily sentenced, placed, committed, admitted, or otherwise required to live in the institution, and who has not been unconditionally released from the institution.

"Unconditionally released" means released, discharged, or otherwise allowed or required to leave the institution under circumstances where a return to the institution cannot be required by the operator of the institution.

Residence in a penal institution is terminated by parole, discharge, release on bond, or whenever the individual is allowed to return and reside in their home. A transfer from a penal facility to the state hospital or another medical institution, for evaluation or treatment does not terminate inmate status. For example, a release from a penal institution to a hospital for the birth of the inmate's child will not terminate inmate status if the inmate is required to return to the penal institution following discharge from the hospital.

- c. An individual who is voluntarily residing in a public institution, or who has not yet been placed in the facility, is not an "inmate." An individual is not considered an "inmate" (so can remain or become eligible for Medicaid or Healthy Steps) if:
 - i. The individual is attending school at the North Dakota School for the Blind in Grand Forks, or the North Dakota School for the Deaf in Devils Lake;
 - ii. The individual is in a public institution for a temporary period pending other arrangements appropriate to the individual's needs (i.e., Juvenile Detention Center, Fargo);
 - iii. The individual has not yet been placed in a public institution. For instance, an individual who is arrested and transported directly to a medical facility is not an inmate until actually placed in the jail. The individual may remain Medicaid or Healthy Steps eligible until actually placed in jail; or
 - iv. The individual enters the Bismarck Transitional Center (BTC) on a voluntary basis while on probation.

2. An individual under age 65 who is a “patient” in an IMD is not eligible for Medicaid, except as identified in subdivision d, unless the individual is under age 21 and is receiving inpatient psychiatric services and meets the [certificate of need](#) for admission. An individual who attains age 21 while receiving treatment, and who continues to receive treatment as an inpatient, may continue to be eligible through the month the individual attains the age of 22. A child who is under age nineteen and is a “patient” in an IMD is not eligible for Healthy Steps unless the child enters the State Hospital after Healthy Steps eligibility has been established. The child’s eligibility cannot continue if the child remains in the State Hospital when eligibility is redetermined.

- a. An IMD is a hospital, nursing facility, or other institution of more than 16 beds that is primarily engaged in providing diagnosis, treatment or care of persons with mental diseases. A facility with 16 beds or less is not an IMD. Whether an institution is an IMD is determined by its overall character as that of a facility established and maintained primarily for the care and treatment of mental diseases. An institution for the intellectually disabled is not an IMD.

IMDs include the North Dakota State Hospital, facilities determined to be a Psychiatric Residential Treatment Facility (PRTF) by the Medical Services Division, the Prairie at St. John's center, and the Stadter Psychiatric Center. For any other facility, contact the Medical Services Division for a determination of whether the facility is an IMD.

- b. An individual on conditional release or convalescent leave from an IMD is not considered to be a “patient” in that institution. However, for Medicaid, such an individual who is under age 21 and has been receiving inpatient psychiatric services is considered to be a “patient” in the institution until unconditionally released or, if earlier, the last day of the month in which the individual reaches age 22.
- c. An individual on conditional release is an individual who is away from the institution, for trial placement in another setting or for

other approved leave, but who is not discharged. An individual on "definite leave" from the state hospital is an individual on conditional release.

- d. A child under the age of 19 who is determined to be continuously eligible for Medicaid, but who does not meet the certificate of need, remains eligible for Medicaid, however, no medical services will be covered during the stay in the IMD.
3. The period of ineligibility under this section begins the day after the day of entry and ends the day before the day of discharge of the individual from a public institution or IMD. A Ten-Day Advance Notice is not needed when terminating benefits due to entry into the public institution or IMD. See Paragraph (4)(c)(iii) of [510-05-25-25](#), "Decision and Notice," for further information.